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April 23, 2004

Hon. David E. Peebles  
U.S. Magistrate Judge  
100 S. Clinton Street  
P.O. Box 7345  
Syracuse, New York 13261-7345

Re: Jeremie Smith v. Glenn Goord, et al., 03-CV-0294 DNH/DEP

Your Honor:

The purpose of this letter is to request the Court's assistance in facilitating defendants' production of certain outstanding supplemental responses to plaintiff's First Discovery Demand.

In Defendants' December 5, 2003 Responses to Plaintiff's September 12, 2003 First Interrogatories and Requests for Production of Documents, defendants indicated in response to several demands that responsive materials would be provided to plaintiff in supplemental responses.<sup>1</sup> To date, plaintiff has not received any supplemental responses. I have also received no response to my inquiries, including two letters, dated February 27, 2004 and April 14, 2004, and a phone message of April 6, 2004, regarding when, if at all, any supplemental materials will be produced.

According to the current Scheduling Order, plaintiff's expert report must be served on defendants by April 30, 2004. I am concerned that information potentially contained in the supplemental responses is relevant to plaintiff's expert's evaluation and will not be available for

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<sup>1</sup>Specifically, defendants indicated that the following information would be provided in a supplemental response: (1) Defendants' Response to Plaintiff's Interrogatory No 3: admission criteria for the Special Treatment Program at Five Points Correctional Facility that were in place in October 2001 and the basis for the determination of Mr. Smith's ineligibility to participate in the program; (2) Defendants' Response to Plaintiff's Request for Documents No. 3: job descriptions for other positions requested, including primary therapist; (3) Defendants' Response to Plaintiff's Request for Documents No. 30: OMH policy in effect at Clinton between January 1999 and July 2002 concerning criteria for termination of outpatient mental health services; and (4) Defendants' Response to Plaintiff's Request for Documents No. 36: a copy of the confidential tape referenced in defendant Melendez's 10/31/01 CNYPC Outpatient Progress note (subject to defendants' objections if it could be located).

her review unless immediately produced.

Plaintiff respectfully requests that the Court direct defendants to provide the outstanding supplemental responses, if any additional responsive materials indeed exist, by a date certain, and/or grant an extension of time for service of plaintiff's expert report, pending receipt from defendants of any supplemental discovery responses.

The Court's attention to this matter is appreciated.

Very truly yours,

s/ Katherine Rosenfeld  
Katherine Rosenfeld (511795)

cc:  
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